

REMARKS

Initially, Applicant would like to thank the Examiner for the indication that claims 22 and 33-35 contain allowable subject matter.

Claims 19 and 41 have been amended to require the alkyl para-hydroxybenzoate to lipophilic amino acid derivative ratios to be from 1:20 to 70:30. Support for this amendment exists throughout the specification, including Example A and page 26, line 12.

New claims 50-52 have been added. Support for these new claims exists throughout the present specification, including pages 4-5.

Claims 19-52 are currently pending.

The Office Action rejected claims 19-21, 23-30, 40-47 and 49 under 35 U.S.C. § 102 as anticipated by EP 538764 ("EP 764"), and claims 19-21, 23-32 and 36-49 under 35 U.S.C. § 103 as obvious over EP 764. In view of the following comments, Applicant respectfully requests reconsideration and withdrawal of these rejections.

The vast majority of the pending claims require the alkyl para-hydroxybenzoate to lipophilic amino acid derivative ratios to be from 1:20 to 70:30. EP 764 neither teaches nor suggests this invention. Rather, EP 764, in Table 6, discloses a composition containing an alkyl para-hydroxybenzoate to lipophilic amino acid derivative ratio of 1:100 (0.05 to 5). Nothing in EP 764 would teach, suggest or motivate one skilled in the art to alter this ratio to arrive at the claimed invention. For at least this reason, Applicant respectfully submits that the rejections under §§ 102 and 103 should be reconsidered and withdrawn.

This is particularly true for new claims 50-52 in which R'4 cannot be a sterol residue. Because EP 764 only discloses amino acid esters containing sterol residues, EP 764 cannot

teach or suggest the subject matter of claims 50-52. For this reason as well claims 50-52 are free of EP 764.

This is also particularly true for process claims 40 and 43 directed to dissolving alkyl para-hydroxybenzoates and to inhibiting alkyl para-hydroxybenzoate adsorption onto solid particles, respectively. EP 764 does not teach or suggest such processes. For this reason as well, claims 40 and 43 (as well as dependent claims) are free of EP 764.

Finally, EP 764 does not suggest or recognize that alkyl para-hydroxybenzoates can be solubilized by the claimed lipophilic amino acid derivatives --- if such recognition had occurred, more alkyl para-hydroxybenzoate would have been added to the examples in EP 764 and the examples would not have contained so much glycol/surfactant (as noted in the Background section of the present application, glycols and surfactants had been used in the past in an attempt to solubilize parabens). One skilled in the art, based on general knowledge in the art concerning alkyl para-hydroxybenzoate insolubility (as discussed in the Background section) and based on the uninformative disclosure in the European applications, would not have been led to the present invention. That is, EP 764 does not contain any teaching, suggestion or motivation to use the claimed alkyl para-hydroxybenzoate to lipophilic amino acid derivative ratios and/or to use the claimed lipophilic amino acid derivatives to solubilize alkyl para-hydroxybenzoates or to inhibit their adsorption onto solid particles.

For all of the above reasons, Applicant respectfully requests reconsideration and withdrawal of the rejections under 35 U.S.C. §§ 102 and 103.

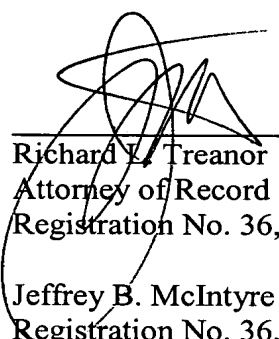
Application No. 10/537,288

Response to Office Action dated March 29, 2007

Applicant believes that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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